Preserve

App F IX-4

Previous References

1933
(Ml)

File No 62-83
Serial Nos 11 & 12

Later References

In C 62 33, 115, 122
Ml 57-38-Ml-1156

GENERAL AND REVENUE SECRETARIAT.

Serial Nos Inw

Part B for January 1934

SUBJECT

Petition of Mr Ghulam Ghouse, Ml Council Stoskole Minor Ml Council praying for stay order in regard to the election of the Vice President of Ml Cl

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Sl 127

To the Dy Comr Bellary

L 5291 of 16 1 34

Forwards copy of the above and requests him to ask the Pdt of the Stoskole Ml Cl to hold a meeting of Ml Cl to ascertain their views about their having a Vice Pdt etc

8 2 34

Serial No.

Petition dated the 11th January from Mr Gurunathan Govinda Gu Gurunathan Govinda, municipal comm Hosakote seeking medical grounds & reasons given that the election of t vice President notified for 22 1 193 be stayed.

2 Hosakote is a minor recentituted with effect from 1 1 193

2 under the rules for the el of a vice President, the date of the meeting to hold the election shall ordi be not later than one month from the of reconstitution

3 It is stated in the petition th the date for the election of a vice P is fixed as 22 1 1934

4 The petitioner prays for a stay on the following grounds —

(1) the non-applicability of the rul issued in notn no L 3056/MI 20 – 22 & 26 11 1927 about the election of Vice President, as they were framed under the old regn of 1926 & the present election in the absence of a desire (2) to have a vice President as contemplat

in section 10 (1) of the Mun Mhs regn 1933 it would be irregular to have a vice President

(3) The Municipal council has not been properly reconstituted, as even before the result of the general election was declared by the returning officer, one of the elected persons was dead & the Mc cl has been reconstituted, declaring the seat to be vacant

(4) That the petitioners' description as qualified is incorrect with the result that it might lead to some technical difficulty in case the wishes to stand for election

5 As against the above points, it submitted that

(1) in this office letter no 24267 H162-336 & memo no 24968-74 dated 20 of Dec 1933 it has been held that by virtue of the proviso to sec 2 of the Amendment Mhs regn 1933, the rules issued in G.O. dated 26th Nov 1927 as amended in 1931 for the election of vice presidents of Municipal Cs continue to be in force until they be replaced.

(2) It is necessary under sec 10 (1) of the Mun Mhs regn to ascertain the wishes of the municipal

Serial No

Council as to their having accepted or otherwise. It is a matter on which legal opinion may perhaps be obtained if in case an election is held without ascertaining the views of the Council, it would be invalid

(3) under section 22 (1) (b) of the main Act, it is laid down that any vacancy on the Municipality will not affect proceedings and the acts of the Municipality will not thereby be invalidated In this case it is stated that no vacancy occurred after the Council was reconstituted but it is stated that after the General election was held but before the result was declared this is also a matter on which legal opinion may perhaps be obtained as to whether the Municipal Council has been considered as being properly constituted or otherwise

(4) In regard to the memorandum of the person, it may be pointed out that this is a matter which he should have brought to the notice of the D.C. in the first instance for it rectified. But this is a provisional entertain as according to the name entered in the Voters' list, it may have been entered only by Bhavisamy

this also would be a contradiction of there should be a resolution of the Council that they wish to have a Vice President, a election takes place by

Opinion seems to have been given by the Law Officer on a previous occasion that keeping a place vacant while reconstituting a Municipality does not render the Constitution invalid for

NOTE—Contn Sheet

WD 0434—GPB—15 000—12 10-33

3821 pos

3881

File No of 1933-34

General and Revenue Secretariat

Serial No

him memorandum if he did not apply in time to the Registrar whose name received he will have to blame himself for that as the petition he has signed as Commissioner only.

6 It has to be finally pointed out that the contentions of the petitioner are those to be taken into consideration only when an election of a Vice President actually held for merit is contested etc, and not known under what section of the Rules the petitioner has brought the application before Court.

7 There are no grounds on which the action of the President can be considered as ultra vires. This does not appear to be the stage when any action can be taken on this petition and he may perhaps be informed accordingly or if he chooses, he may enter the validity of this election if when held under the rules of Sub-Judice proceedings.

9 This may perhaps be done But before doing so the Asst Secy Law Secn may be consulted re Govt (2) etc referred to on the last page

10 For favour of opinion

Asst Secy

12/1/34

Asst Secy

Revenue Secretariat | File No | of 193

Serial No

11 The rules framed under Regn of 1906 are deemed so far as appropriate to have been framed under the present Regn, the old rules are therefore not abrogated by the passing of the Municr Regn

12 As however under sec 10(1) of the Regn the M'C' can have a Vice President of it when it so desires, there ought to be a meeting of the Council and a resolution passed thereat expressing such desire In its absence, the election cannot be held.

13 The vacancy caused by the death of an elected councillor does not render the Constitution in any way illegal Under sec 22 the remaining Councillors can act

14 The D C may ask the President in this case to call for an urgent meeting of the C to express their desire regarding having a V P and if they agree the C resolves in its favour, further proceedings towards the election may be taken If this necessitates the postponing the date of election, it has to be done -

Gen Sec Legs
Work Comps

SDP 13/1/34

15 for orders

Gen Secy

vbm 13/1

16 A Draft may be prepared accordingly

17 Please submit draft as above

vbm 13/1 3/1

GENERAL SECRETARY 13 JAN 1934 No 378

8677/P/33 246 Laws

NOTE—Contn Sheet

WD 0484 GPH 15,000/12 10-33

File No 62 of 1933-34

General and Revenue Secretariat

Serial No

18 A draft letter to the D.C. Bangalore with is subs for orders with ref to paras 16 & 17 supra

19 Since there has been a material change in the law it is likely that mul. Ch. may hold elections of vice presidents without ascertaining the wishes of the council previously, it is proposed to communicate the orders to the D.C's of the Distts also

Ans 15/1/34 Asst

The draft portion is for ack

In cases in which action is not already taken under the Law and it has to be taken now in accordance with the instructions to be issued the provision made in Rule 1 (a) of the Election Rules re the time within which the election is to be held may be relaxed - But there may be no legal objection regarding the validity of election since the word 'ordinarily' occurs in the rule

Rule 3(1)(a) was recently amended when the matter came up

Gen'l Secy) 15/1

Draft may be approved

V Number) 15-1-34

15/1 16/1 Thu 16/1 Issue today for

OFFICE OF THE SECOND MEMBER OF COUNCIL
16 JAN 1934
NO 4369

Serial No	
~~33~~	To
12	The D.C. Bangalore District No 25491 B 16/34 Fd a copy of the petition and requests him to ask the President of the Harijan sevak sangh to hold a meeting of the members to ascertain their views about them having a separate electorate
	To The D-es of the Depts No 25492 B 16/34 Fds for information etc a copy of Sl 12 supra.

B
for
17/1/34

WD 0434—GPB—15 000—12-10-32

provisions of the New Regulation

5 Under the previous municipal Regulation, the election of the Vice President was done according to the orders of the Government but in the new Regulation, there is a material modification

6 Under Section 10 (1), there shall be a Vice President to the Municipal Council, if and whenever the Municipal Council so desires The new Municipal Council had not yet met as yet and they have not signified their desire to have a Vice President at all and thus the election notified without the resolution of the Council in that respect is irregular and goes against the provisions of the Regulation itself

7 In the circumstances disclosed above the election notified by the President, is irregular and even if it takes place, the election will be null and void Further, there are other objections One of the possible objections is, that before the result of the General election held in October 1933, was declared by the Returning Officer, one of the elected persons by name H Muhamad Osman was dead The Returning Officer reported the said fact without holding the election thereof but the Government issued order re-constituting the Council made declared the seat to be vacant The Municipal Council as it is, is not therefore properly constituted

8 One other fact which the petitioner has left out is that the Returning Officer has not properly reported the description of the councillors elected Namely, the petitioner's description is the [illegible]

ought to be pursued before this Municipal Council. In this respect also technical difficulties may arise in case the petitioner chooses to be a candidate for the election of the Vice President etc.

9 In view of the above facts, which are very material, the procedure adopted by the President is illegal and ultra vires, and the election if any, that may take place should be declared invalid.

The petitioner therefore prays that the election notified be stayed, and it may be declared necessary after the defects and mis-entries are remedied, if the Council elects to express its decision as required under Section 10 of the Mysore Municipalities Regulation 1933.

Bangalore City,
11th January 1954

Petitioner

L 5291 / Pol 62-33-12

Jr 16-1-34

To

The Deputy Commissioner
Bangalore Dist

Sir,

In forwarding herewith a copy of petition dated 11th January 1934 from Mr Gurusawmy Gowda, municipal Councillor, Hoskote town municipal Council, praying for stay orders in regard to the election of the Vice President of the said Mc. ~~stated~~ to have been fixed for the 22nd Jany 1934, for reasons given, I am directed to point out that Sec 10 (1) of the

mysore munn municipalities

Regn 1933 lays down

that the municipal council

can have a vice president

if & when it so desires,

and that ~~there must be~~ Therefore there cannot be an election for the purpose

unless a meeting of the council is duly held

and a resolution is passed

thereat expressing such

desire. ~~As~~ ~~there is an~~

~~its absence, the election~~

~~cannot be held.~~

2 In the circumstances

I am to request you to

ask the President of the

~~Mysore~~ munn mle cl

to call for an urgent

meeting of the mle cl to consider

the question ~~express their desire regarding~~

~~having a vice president~~ and

if the council resolves (have a vice President

~~as at present~~ further proceedings

to hold the election may be

taken. If this procedure

necessitates the postponement of

the date of election
may be done

3 I am to add that
para 1 of this letter may
also be communicated to
the Presidents of the
Town Panchayats and
for information and
guidance

I have etc

Sd/-

for Secy to Govt

Memo no— L 5292-8 dt 16/3/34

Copy of the above
forwarded to the Dy Cs
of the Dists for
information & communication
to the Presidents of Town
Panchayats in their
Dists

B. O

for Asst Secy to Govt

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L 5291
Ml 62-33-12

General and Revenue Secretariat

Dated Bangalore 16th January 1934

FROM

The General *Secretary to the Government of His Highness the Maharaja of Mysore*

To

The Deputy Commissioner
Bangalore District

SIR

In forwarding herewith a copy of petition dated 11th January 1934 from Mr Guruswami Gowda, Municipal Councillor Hoskote Minor Municipal Council, praying for stay orders in regard to the election of the Vice-President of the said Municipal Council stated to have been fixed for the 22nd January 1934 for reasons given I am directed to point out that Section 10(1) of the Mysore Minor Municipalities Regulation, 1933, lays down that the Municipal Council can have a Vice-President if and when it so desires and that therefore there cannot be an election for the purpose, unless a meeting of the Council is duly held and a resolution is passed thereat expressing such desire

2 In the circumstances I am to request you to ask the President of the Hoskote Minor Municipal Council to call for an urgent meeting of the Municipal Council to consider the question and if the Council resolves to have a Vice-President, further proceedings to hold the election may be taken If this procedure necessitates the postponement of the date of election, if any, already fixed, it has to be done

3 I am to add that para 1 of this letter may also be communicated to the Presidents of the other Town and Minor Municipal Councils in your district for information and guidance

P T O

I have the honour to be

Sir,

Your most obedient servant

Sd H V Ramaswami

Psk 9 General Secretary to Government

Memo -- No 2 5292-8

Copy of the above is forwarded with compliments to the ~~other~~ Deputy Commissioners of ~~Districts of~~ other Districts f information and communication to the Presidents of Town and Minor Municipal Councils in their districts

By Order

Ajeevaraa
for General Secretary to Governm